

**CITY MANAGER'S OFFICE MEMORANDUM  
#20-2019**

**DATE:** March 25, 2019  
**TO:** Honorable Mayor Carol Dodge and City Council Members  
**THROUGH:** Heather Geyer, City Manager *Hmg*  
**FROM:** Debbie Tuttle, Economic Development Manager *DT*  
**SUBJECT:** CB-1924 – Public Financing Special Ordinance

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**PURPOSE**

The purpose of this CB-1924 on First Reading is to implement a Special Ordinance granting a sales tax credit for 2.25%, and an accommodations tax credit for 3.75%, known as a “Credit Public Improvement Fee” (Credit PIF). This Credit PIF is imposed and collected subject to the terms and limitations set forth in the Credit PIF Covenant, the PIF Collection Agreement, and the Public Financing Agreement (PFA) with KF Developers, Inc. This Ordinance is an Exhibit to the Public Financing Agreement (PFA), which is scheduled to be presented to Council on April 8, 2019.

**BACKGROUND**

On October 15, 2018, KF Developers, Inc. presented to Council a project overview, potential funding sources, and to request City Council’s consideration of a Credit PIF in the amount of \$2.18 million. This amount is less than 10% of the total public infrastructure costs, and an even smaller percentage of the total project costs. The PFA is comprised of a performance based, share-back of the net new sales and accommodations tax revenues to help fill the financial gap on developing the commercial portion of this development as described in the Credit PIF Ordinance and PFA.

**BUDGET/TIME IMPLICATIONS**

The developer is asking the City Council to consider a share-back of sales and accommodations taxes in the total amount not to exceed \$2.18 million to help offset the financial gap for the commercial development of this project. This request is a share-back of the net new sales generated by the development and does not impact existing revenues.

**STAFF RECOMMENDATION**

Staff is recommending that City Council approve CB-1924, an ordinance being presented on first reading, and schedule the item for second reading and public hearing for April 8, 2019.

**STAFF REFERENCE**

If Council members have any comments or questions they may contact Debbie Tuttle, Economic Development Manager at [dtuttle@nothglenn.org](mailto:dtuttle@nothglenn.org) or call 303.450.8743.

CB-1924 – Public Financing Special Ordinance

SPONSORED BY: MAYOR DODGE

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1924  
Series of 2019

\_\_\_\_\_  
Series of 2019

A BILL FOR A SPECIAL ORDINANCE GRANTING A SALES TAX CREDIT IN THE AMOUNT OF 2.25% AND AN ACCOMMODATIONS TAX CREDIT IN THE AMOUNT OF 3.75% TO THE EXTENT THAT CERTAIN PUBLIC IMPROVEMENT FEES ARE IMPOSED AND COLLECTED

WHEREAS, the City has entered into a Public Finance Agreement (the "Public Finance Agreement") with KF Developers, Inc., a Colorado corporation, and \_\_\_\_\_, concerning the financing and construction of certain eligible improvements in association with the development of a mixed-use development on certain property more specifically described in the Public Finance Agreement (the "Property"), which is generally located between Irma Street and Race Street north of E 120<sup>th</sup> Avenue in the City of Northglenn (the "City");

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Public Finance Agreement;

WHEREAS, pursuant to Section 3.2 of the Public Finance Agreement, the City Council has agreed to consider adoption of an ordinance granting a Sales Tax Credit in the amount of 2.25% against the collection of Sales Taxes on Taxable Sales to the extent that a public improvement fee in the amount of 2.25% (the "Credit PIF") has been collected on Taxable Sales, subject to the terms and limitations set forth in the Public Finance Agreement;

WHEREAS, pursuant to Section 3.2 of the Public Finance Agreement, the City Council has agreed to consider adoption of an ordinance granting an Accommodations Tax Credit in the amount of 3.75% against the collection of Accommodations Taxes on Accommodations Sales to the extent that a public improvement fee in the amount of 3.75% (the "Accommodations Credit PIF") has been collected on Accommodations Sales, subject to the terms and limitations set forth in the Public Finance Agreement; and

WHEREAS, providing for such Sales Tax Credit against the Credit PIF collected and paid on Taxable Sales and providing for such Accommodations Tax Credit against the Accommodations Credit PIF collected and paid on Accommodations Sales will substantially aid in the financing, acquisition, and construction of necessary Eligible Improvements that will benefit the residents of the City and patrons, occupants, and residents of the Property, and will protect and promote the public health, safety, and general welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Notwithstanding any other provisions of Municipal Code of the City of Northglenn to the contrary, and in order to implement the provisions of the Public Finance Agreement, there is hereby granted to each person or entity obligated to pay, collect, or remit Sales

Taxes on Taxable Sales, a tax credit against the collection of the Sales Taxes as hereinafter set forth. Such tax credit shall be granted in the form of a reduction in the applicable Sales Tax rate in an amount equal to 2.25% of gross receipts (the "Sales Tax Credit"), and shall attach to a particular transaction only to the extent that the Credit PIF is collected for such transaction. The Sales Tax Credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Sale, but shall be subject to the applicable retailer's remittance of the Credit PIF in accordance with the Credit PIF Covenant and the Public Finance Agreement for a period of ten (10) years from the date the Credit PIF is first collected (as reflected on the retailer's periodic sales tax report).

Further, notwithstanding any other provisions of Municipal Code of the City of Northglenn to the contrary, and in order to implement the provisions of the Public Finance Agreement, there is hereby granted to each person or entity obligated to pay, collect, or remit Accommodations Taxes on Accommodations Sales, a tax credit against the collection of the Accommodations Taxes as hereinafter set forth. Such tax credit shall be granted in the form of a reduction in the applicable Accommodations Tax rate in an amount equal to 3.75% of gross receipts (the "Accommodations Tax Credit"), and shall attach to a particular transaction only to the extent that the Accommodations Credit PIF is collected for such transaction. The Accommodations Tax Credit shall be automatic and shall take effect immediately upon the occurrence of an Accommodations Sale, but shall be subject to the applicable retailer's remittance of the Accommodations Credit PIF in accordance with the Accommodations Credit PIF Covenant and the Public Finance Agreement for a period of thirteen (13) years from the date the Accommodations Credit PIF is first collected (as reflected on the retailer's periodic sales tax report).

The Sales Tax Credit and the Accommodations Tax Credit granted pursuant to this Section shall each automatically terminate in accordance with the terms and conditions of the Public Finance Agreement without further action by the City.

Section 2. Invalidation. In the event the Sales Tax Credit and/or Accommodations Tax Credit established herein or the Credit PIF is determined by a final court decision to be unconstitutional, void, invalid, or ineffective for any cause, retailers shall immediately be required to collect and remit the full City Sales Tax as required by the Code and providers of accommodations shall immediately be required to collect and remit the full City Accommodations Tax as required by the Code. If any part or provision of this Ordinance or the application thereof to any person or circumstances is determined by a final court decision to be unconstitutional, void, invalid, or ineffective, such determination shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Change in Tax Rate. Nothing contained in this Ordinance shall prohibit the City, after complying with all requirements of law, from increasing or decreasing the City's Sales Tax rate or Accommodations Tax rate.

Section 4. Effect of Credit, Applicability of TABOR. The City Council hereby determines that the creation or termination of Sales Tax Credit and/or Accommodations Tax Credit does not constitute a tax increase, the imposition of a new tax, or a tax policy change directly causing a net tax revenue gain to the City,

INTRODUCED, READ AND ORDERED POSTED this \_\_\_\_ day of \_\_\_\_\_,  
2019.

\_\_\_\_\_  
CAROL A. DODGE  
Mayor

ATTEST:

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JOHANNA SMALL, CMC  
City Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_ day of \_\_\_\_\_,  
2019.

\_\_\_\_\_  
CAROL A. DODGE  
Mayor

ATTEST:

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JOHANNA SMALL, CMC  
City Clerk

APPROVED AS TO FORM:

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COREY Y. HOFFMANN  
City Attorney